

MODERATOR: Ashland Public Comment Meeting. October 6th, 2004. (break in tape)

MALE (begins mid-sentence; difficult to hear as he seems to be talking away from the microphone): ...pricing mechanism under the (not understandable) see Wisconsin leaving Minnesota and Michigan high and dry by underselling water. And there's no mention of price, regulations, which are many, which are subjective it seems to me.

BRUCE BAKER: Well I, I'm not sure that I understand your question cause you can't really buy water in Wisconsin.

MALE: Well if you're talking about diverse and consumptive uses, outside the base (not understandable), we do wind up selling Great Lakes water. What about the price mechanism? One state could undersell the other state. You've got counties, the lakes. You've got five Great Lakes involved, Lake Superior. You've got, you've got three states at least on this side. And Wisconsin can undersell Minnesota and Michigan.

BRUCE BAKER: Well, we're not proposing to sell, none...none of the governments are proposing to sell Great Lakes water and we believe that the, you can't buy the Great Lakes water. People can use Great Lakes water and, and the law on that is called the Reasonable Riparian Use in Wisconsin, where if you have access to the water and you don't do adverse harm to others and meet all the applicable regulations, you can use the water but you can't buy the water. It's public. So, there is really no possibility of selling it right now. And these regulations here are intended to have requirements to look at the environmental implications of, of water use. The one way Great Lakes water could be sold is if it's taken and turned in, by some company, into bottled water. Or ground water could be turned into bottled water. Or if it's turned into beer or if it's turned into soda or if it's put into the radiators of a car in Detroit as it's shipped out of there or if it's put into paint. When it's turned into a product, that product is sold but nobody buys the water for that. They don't buy a right to use the water for those products. They, that is a free right to use the water.

MALE: OK, but say Wisconsin sells water on the shore line of Lake Superior, and water from Lake Superior (not understandable) being depleted, uh, he would be (sneezing—inaudible) actually selling Lake Superior water (not understandable). Wisconsin (coughing—inaudible) sales tax (not understandable) would have in this state, located in Wisconsin and then (child hollers—inaudible) selling water that's coming from Lake Superior and replenishing the (not understandable) along the shoreline because you said ground water is kind of arbitrary along the shoreline. You said some, in some cases water from the Great Lakes comes into the ground water and sometimes it charges Lake Superior. So it seems to me like, like you know, we're eventually gonna be selling it because it is a commodity. We commodify just about everything and it looks like, to me, like the regulations are trying to prevent this. But I, I don't know if they're going to be able to sell it, if there is a real need for water elsewhere.

BRUCE BAKER: OK, I understand what you're feelings are and your comments and I guess I, you know, if you think these documents need to deal with that in some way, I would urge you to provide a verbal or written comment on that. Um. As it stands right now though, people have the ability to use the water. It's, you can use it to fish; you can use it to recreate; you can use it for drinking water; you can use it...it's all part of the Public Trust Doctrine and the Reasonable Riparian Use. But there is no part of this that really promotes or restricts the ability to use the water. It's if you can pass these environmental tests that we are proposing.

FEMALE: Hi. My name is Charlotte (not understandable), the Environmental Programs Manager for the Red Cliff Band of Lake Superior Chippewa. And I'm not making comments on the record because I work with the (not understandable) and making comments that passed through (not

understandable) counsel at a later date. (not understandable), you know, talk to that. I was wondering what your form of consultation process has been with the tribes since there's just in this fact sheet no mention of the tribes and we have over 30, or we have 30 federally recognize Native American Nations living in the United States alone and has consideration been taken into account in this regulation for protection of treaty rights.

BRUCE BAKER: First of all, remember as Chuck had in his outline that there was a Water Resource Development Act that Congress gave the authority to the governors to decide yes or no on diversion. And so the basis for the annex and the basis for the agreements that we're proposing are based on the, that Congressional Act that basically said governors, you decide on when and where or if there is a Great Lakes Diversion. In the process of developing this we've had two things that we've done in the development process. One, we have an advisory committee that was made up of a number of representatives from various interests and we sent out, primarily through written communication, an invitation for direct consultation with any tribal uh, members or groups that wanted to have that sort of direct consultation and in some states, and we've done it on a state-by-state basis so it's been done within each jurisdiction based upon the relationship and the number of tribes that they might have in their jurisdiction. So if, it varies a little bit from state-to-state. On the Canadian side they have, I believe, the number is somewhere around 400 different tribes that, or as they would say First Americans, that they are working with in a, in a similar fashion but it's not a, not identical fashion. So we are collaborating between each other in terms of making sure we get the information out to the tribal reps and also offering an opportunity for consultation in there have been and there will be direct meetings as a result of, of those invitations.

(someone starts speaking then there is a lot of popping/static noise)

BRUCE BAKER: You're not supposed to have them. (popping sound continues)

MALE: I just add that, I did...

BRUCE BAKER: It's off.

CHUCK LEDIN: Oh. I would just add that I did meet with the GLIFWC Tribal Board about two weeks ago and with the staff of GLIFWC and we have sent out letters to all the other tribal governments in the state of Wisconsin. And as Bruce said though, there's only four, four of the eight states that do have federally recognized tribes in the watershed and so it makes it difficult to do anything as a group in that, and that's, that was the basis as Bruce said for each state to go on independent discussions. And even the state relations are somewhat different between New York and Wisconsin on those kind of things. So. That's, that's the process right now.

BRUCE BAKER: Anyone else?

MALE: Chuck, you mentioned briefly there was a return, requirement to return water sitting on a basin(?). Could you expand a little bit more on how the compact is with that in the language that's in the draft?

CHUCK LEDIN: Any size diversion would, would have to have a return flow requirement on it. And it has to be returned to the, or nearly to the same location where the water was taken from, and it has to meet all the applicable federal, state and local requirements for quality. And the return flow provision is something that we believe will limit any long-range transfers of water because it would mean two lines basically and probably two treatment systems. The only exemption to that is for nearby communities that are less, where the withdrawal would be less than 250,000 gallons a day. They can get an exemption from the return flow but any other diversion is required to have a return flow.

MALE: Would that amount to a water intake from the lakes and then a sewerage return (laugh)?

BRUCE BAKER: Yes.

MALE: Well that's not (laughing—can't understand).

BRUCE BAKER: Well it depends the use. Well first of all, as Chuck said, if it's returned it has to meet water quality standards and you know other criteria for quality so it couldn't be returned just raw water that's been polluted through some process. But there's a lot of other processes that wouldn't necessarily be wastewater type of return. If an industry's using it, for example, for food...

MODERATOR: I'm sorry. We can't hear you.

BRUCE BAKER: I'm sorry. If an industry is using it for some process, it may not necessarily be contaminated water that gets returned. It may just be water quantity that gets returned. So not every case that there's gonna be a water quality issue. But where there is, there's a clear statement that, you know, that water has to be returned in an acceptable quality in line with other regulations and requirements. Yes.

MALE: (not standing by a microphone) Is there a temperature (not understandable)? (not understandable) Folk Creek – how to find expansion in Southeastern Wisconsin. It is contemplating returning water, billions of gallons per day. It's 15 degrees higher than the surrounding water. Is there a temperature requirement for quality?

BRUCE BAKER: There is a temperature requirement.

MALE: OK.

BRUCE BAKER: But it's, they're, they do not have to bring it back at exactly the same temperature they got it from. But there is a temperature requirement.

MALE: (not understandable) 18? 15 degrees?

BRUCE BAKER: I don't know...

MALE: It's gonna change the ecology.

BRUCE BAKER: Well it depends on, on how it goes back and how it's mixed. I mean all those calculations go into how the allowance for return flows. And if in fact the case is as you concluded then that would not be approvable.

MALE: Say again?

BRUCE BAKER: If the case is exactly as you concluded, (coughing heard) then that would not be approvable.

CHUCK LEDIN: But one of the things that is an issue, just for electric power as an example, is there's tremendous evaporative loss when a twice-through cooling system is used. The twice-through cooling system does better temperature control but then you lose water through evaporation. So you get into a circumstance where you need to look at some trade-offs and as a result of that, at the Folk Creek Plant that you're talking about, they're gonna be using a closed-system cooling where they're

gonna use a lot of water with a once-through pass but there'll be very, very little. I think the projection is about 1.8 million of evaporative loss which is very, very small for a facility of that size.

MALE: (difficult to hear) You asked (not understandable) make sure changes (not understandable).

CHUCK LEDIN: Well again, it has to meet the temperature standards. It will have to meet the temperature standards.

FEMALE: Who sets these standards?

BRUCE BAKER: EPA sets some of them.

FEMALE: We can't trust them right now. (all laugh)

BRUCE BAKER: Well then I'm not gonna tell you we set them. (more laughing from everyone)

FEMALE: I mean, we're serious about this. That, we don't know whether the science is any good on this. I mean.

BRUCE BAKER: Well I think that's a separate issue to the, what we're here at now. But I think if there is a concern that you have about temperature standards or environmental quality or those kind of concerns, I think those are the kinds of things that need to be advanced about comments into this process. And if you think there's some other kind of certainty that needs to be associated with those kind of proposals, it would be helpful for you to advance those suggestions right now. Either in written or verbal comment.

FEMALE: I'm curious. Is there any movement to treat this wastewater, to put it back to the (not understandable), why can't they treat the wastewater from the community and use that? For, for whatever process it's (not understandable). Does that make sense to you?

BRUCE BAKER: Well, I think that possibility exists in some places and probably will be investigated as this goes on. One of the key tenants of this new proposal is to beef up water conservation and out of that we're hoping that there will be more multi-use coming out of this. One of the issues that obviously comes up though in a question of, of, and this is just an example – I'm not advocating one way or another – in municipal systems there's very little control over what people put into the system. Every household can dump whatever they want cause there's no meter at your house that says, oops, you just dumped five gallons of paint down, or five gallons of oil or whatever. And industry is gonna be a little reluctant to reuse some waters for some uses without having some certainty about what the quality is that's getting through it and with this opportunity for spills, there is some concern or anxiety on industry to reuse water streams from the municipal systems when they don't know, they don't control the quality. So that is an issue that needs to be dealt with but right now we do have one project that is looking at this opportunity of using treated effluent for its cooling water stream.

CHUCK LEDIN: One of the, the parts of the standard is they look at alternatives so if somebody is proposing a project, they're gonna have to evaluate alternatives to taking the water from the lakes and that will be something that will be an open process if there are public concerns or individuals have questions that, you know, why isn't, why aren't they looking at this alternative. So in this specific project, that's very much fair game to say wait a minute. They don't need to take water out of Lake Michigan. They can get water from the Milwaukee Sewage Treatment Plant that would be adequate for that particular case. That, that's certain fair game. But there's no requirement that they

do that. But the slant on this is clearly we don't want to use, have people use Great Lakes water if there are other alternatives that are available to them and obviously it has to be a reasonable cost alternative. It can't be, you know, get a, buy an ice burg or anything from Alaska or something like that. But, you know, it has to be a case where they do look at all the options.

MALE: I have a question about the returned water and the temperature change. Is that a system where you're gonna look at requiring an environmental impact analysis for each individual case (not understandable) general standard of what temperature it can come back at? Or what, I didn't (not understandable).

BRUCE BAKER: Well this, this agreement will not deal with that issue. What this agreement will say is that each jurisdiction should have water quality standards that are met by any return flow. And so the fact that, that uh, there already has been a great deal of discussion between the Great Lakes States in terms of having similar water quality standards, we went through a 10-year process to do that and we continue to have review of those issues. Once there is a, a temperature standard that EPA puts out, then all the Great Lakes States are gonna have to have similar standards. But it's not, it's not something that will be identified in this process. We want this process to be something that is a single process that lasts many years and water quality standards are gonna change over time and be sort of state rules that get better or refined as we go along. So it's a different type of agreement. (pause) Yes.

MALE: I can see a problem, the World Trade Organization, where they're gonna say look, you're asking us to do things that you're not asking Milwaukee to do or that Milwaukee's done. (not understandable) They're sending back (not understandable) water into the lake and uh, (not understandable) us they're doing. So it looks to me like you're gonna have to treat all of us the same way cause that's the rule. That's world trade rules now. Are you gonna be able to stand by that? Are you gonna, is that gonna be defensible?

BRUCE BAKER: Well, I believe the answer to that is yes. We are intending in this agreement to have people treated the same whether they're in Wisconsin or outside of Wisconsin or in the basin or outside of the basin. Um, you know. I don't want to get into the big discussion on Milwaukee but, you know, we have filed enforcement actions against Milwaukee or at least referred enforcement actions to justice because we believe they have violated our standards. So, it's not a case where you can say what Milwaukee did is, is what we're, you know, then they're gonna be treated differently. We're, we're taking enforcement action because we do believe that what they've done is, is not satisfactory at this point and uh, we would require the same thing of other places around the state. Milwaukee is not the only city that has had overflows that have caused problems. In fact, there's probably some in this region that we're also looking at. So it's a universal issue. Yes?

MALE: I wonder if you could answer a question about the process of privileging previous use so that only a new (not understandable) is going to be reviewed. Is that just, is that a legal issue or is it more an issue of just not enough resources to (not understandable) system is...?

CHUCK LEDIN: Well the, the main thing is lots of people have invested into systems that are out there and some of them have even been paid for with public funds on some of the water utilities. So the grandfathering provisions in there are based on existing capacity but on the limited part of existing capacity so that if somebody had a, say a water main that was sized for a 50-year service life but a pump that was sized for a 10-year service life, the 10-year capacity would be what was grandfathered, not the 20-year service life sizing. But it's because there's been a, an investment in taxpayers or investors have paid a certain amount of money that's already sunk costs and built systems. Now again, this is an item that is getting some discussion around the basin and if other options are being proposed on that, that's fine to comment on that. But the grandfathering right now is what, basically a structured grandfathering.

BRUCE BAKER: The other consideration here is based on all the information we've seen, nobody has identified a water quantity problem with the Great Lakes as a result of the water that's currently being used. And so the thought is that, you know, if we're gonna apply a standard in the future that basically says we don't want to see any adverse impact to the Great Lakes, we don't believe there's anything to be gained by looking at existing users because there's really no evidence that the quantities that are being used right now are causing Great Lake issues now. So this is really a future focus issue. But we are concerned about, in this agreement, precedents. We are concerned about cumulative impacts of decisions that go on, those provisions that are, that are in there so we're, you know. Don't be mislead to believe that well, OK, if there's somebody proposing a discharge and it's small, has no impact, that they're automatically approved. I mean, we are gonna look at what does this mean long term for the Great Lakes. Are we opening a door here that we don't want to open with a particular approval.

MALE: There's a provision to allow user under 250,000 gallons, to withdrawn 250,000 gallons without going through this process. About how many people would that, if it were a municipal system, how many people would that (not understandable)?

CHUCK LEDIN: It's about 2500 people. And it, it's not that they don't have to go through the process. They have to go through the process. They have to do the no reasonable alternative and the no adverse impact, the water conservation plan. The only thing that, the exemption for them is they don't have to do the return flow IF they're within this kind of community straddling the drainage basin definition that we've set there because we have some communities that are perched right on top of the drainage basin line like Kenosha, where if you prohibit the diversion, half the city could get city water and half the city couldn't get city water. So it, that 250 exemption was intended to, to look at some of those boundary systems and where there are suburbs of 2500, the could get the water but maybe not have to return it.

MALE: I didn't mean it to (not understandable).

CHUCK LEDIN: No no. I...

BRUCE BAKER: But I, but I do think it doesn't really matter how we characterize things at this point because that clearly is an area that there's been a real struggle in trying to come up with some type of threshold to recognize...you know, at some point, you take it to the other...250,000 sounds like a lot. It's not really a lot of water when you look at systems. But on the other hand, we certainly don't want to be looking at, looking at one gallon type projects. And so at some point we've got to say look, if they're, if they're really small, diminimus kind of projects, you know, those are not ones that, that need to be put through the full process and that's, that's really the intent of it. Whether that right number is 250,000 or whether it's a hundred thousand, or there are other ways to accomplish that, you know, that's stuff that, that we'd love to have people's reaction to. You know if you're concerned about something like that, if that, you know, if nothing else, raise that concern.

CHUCK LEDIN: And just as a point of clarification on the thresholds, those thresholds were not picked because of any kind of cause and affect with environmental conditions. It's picked strictly to try to separate, have some kind of a separation between those projects that would go to a regional review which will probably be time-consuming and hard to get done, and those projects which can be done within a jurisdictional level. With the quadrillion gallon figures in the Great Lakes, it's impossible right now with our state of knowledge, to say a value of this level will have an adverse impact on the lakes. It's more, those kind of cause and affect relationships are more easily done in tributaries which have a more controlled flow, less flow situation. You can better define the ecological impacts of taking water out of a tributary and what that will mean. But in the Great Lakes right now, the thresholds are administrative thresholds, not ecological thresholds.

MALE: What is there in any of these provisions that will um protect the lakes, hence, but I know others have described as death (not understandable) (cough—inaudible). You've got small withdrawal, a lot of small withdrawals spread throughout the basin. Is there any, any uh check or balance that will restrict that kind of king of impact?

BRUCE BAKER: Yeah, there is a provision in here that calls for at least every five years for a review of the cumulative impact of all approved diversions or water losses. I mean it's not just the diversions but water loss that's occurring also within the basin that could be at issue. And any jurisdiction, or maybe it's two jurisdictions – I'd have to go back and look. We changed those provisions so much (laugh). – you know, can request a review of that earlier than the five-year timeframe. So there's a backstop that says you have to look at that and you have to consider it every five years. And if there is a trend or a concern that comes up along those lines, then that would affect future individual approvals based upon, you know, that cumulative impact review. It also could be raised in a individual project in the regional review if it's particularly a large issue leading to a lot of future water loss. So it's fair game in the process. It, it's you know, though, that we can't legally say well this particular proposal, even though it has absolutely no impact on the Great Lakes and it's absolutely necessary for, for whatever reason, we can't, we're not gonna approve it because, you know, ultimately there'll be a whole bunch of projects and, and they'll use too much water. That would be probably a indefensible legal position to take. So we have to, we have to do it based on I think good factual evidence that the cumulative impact is a reasonable concern. Yes.

MALE: The agreement provides that states have ten years to develop a management plan and regulations to implement their agreement. What triggers, it's ten years from when? The first date, the last date, converse and that being whatever?

BRUCE BAKER: Um, you know that, first of all I think that there's a lot of discussion about whether ten years is the right...

MALE: Right.

BRUCE BAKER: ...phrasing and I think, you know, another question for you to consider is maybe the things that should be faster in the ten-year period. I mean maybe to have the whole system in place would take ten years but maybe the conservation provisions should be required in five years. Those are things that have been talked about and people should, you know, think about and express some opinions and maybe there are milestones that should be set up so that we don't wait ten years to see whether everybody does it. So it's kind of a holding period for ten years where nothing happens. I think that's a, also an issue for people to look at and think about. But in terms of the start date, the most talked about start date would be when each of the jurisdictions signs off on. So it would be based upon the final signature of the agreement, that would start the ten-year clock ticking. We're not doing it. I mean we've talked about basing it on when the last jurisdiction passes legislation to do it. That, you know, we wanted, we didn't want to create an incentive with the ten-year requirement for people to delay implementation. So we want to start the clock ticking so that people that act sooner are gonna have more time to get their program together and people that delay are actually gonna be penalizing themselves in terms of that ten-year period. But, you know, there's, there are a lot of different ways to do this and, and you know, I think it's still very much an open question.

MALE: I hate to drag it back to one point. I had so many questions about the (not understandable) and just want to return, well, to the, would that be a regular, you know, (not understandable) permit that's all the (not understandable) rules (not understandable).

BRUCE BAKER: Right.

MALE: I mean, I've been guessing at that but I wanted to hear from you.

BRUCE BAKER: No, that's correct.

MALE: OK.

BRUCE BAKER: And public hearing requirements that request it and a bunch of process that goes with that. You can appeal it at (not understandable) case hearings.

MALE: Is there any way that you can say how many (not understandable) to put things, take an hourly rate, hourly return or whatever. Is there anything you can do to stop that for ten years? Or is that now considered (not understandable)? (not understandable) another five years from now?

BRUCE BAKER: Well first of all it depends on whether it's a diversion or a in-basin use. The diversion requirements that are in place now are the federal law that says that you can't do a diversion of any Great Lakes water without the approval of all the governors. And what we envision is once there's an agreement signed by the governors, we will use this agreement as the process for looking at those Great Lakes diversions. So what's being proposed here is to further define how we would use the current law that affects whether somebody can get a diversion or not. In terms of in the basin, if it's an industry in the basin that's proposing to use the water and there's gonna be some water loss, un, what we're saying is if they're a large facility, they'll come under immediate regional review and have to meet all the requirements once there is adoption by all the jurisdictions of those requirements. So there will be some lag time in terms of dealing inside the basin but this, there is requirements now that make it difficult for any diversion to occur, if not impossible. But there's lots of, you know, no matter how we set this up, if people want to find ways to go around the schedules and the games, you know, I can guarantee they'll try to do that. And if you see, you know, a loophole in here of that kind or if you're concerned about that, you know again, let us know. We're trying to design this so that it has every incentive for people to comply and not allow them to somehow get around it.

MALE: Then can't we just say no?

BRUCE BAKER: That goes back to the comment I made earlier about water being an article of commerce. You can't say no on interstate water issues because you know no state can control interstate commerce by, by state law. That has to be, it's subject to the U.S. Constitution and it's subject to Supreme Court decisions that allow other states access to things that are interstate commerce. Just like highways. Like we couldn't say, you know, tomorrow to Illinois, you can't drive into Wisconsin any longer if you're an Illinois resident. You've got to have a, be a Wisconsin resident in order to use our highways. You can't do that.

MALE: (not understandable) It's the same thing. (not understandable).

BRUCE BAKER: You know the reality I think of this agreement is, you know, some people would say and we certainly have heard this, there's not an issue here. You shouldn't even, you know, put in place any kind of requirements. I don't think the issue is that tomorrow we stand to see a project that's gonna make a significant impact on the water quantity of the Great Lakes. I think in time that is definitely the case. And if we don't start putting in place now a decision-making process that leads up to the point where it becomes an issue, we're not gonna be able to overnight put in place some process to judge a project. So what we're intending to do here is to build a track record of making decisions wisely on the use of Great Lakes water so that when there is a huge project that provides a threat, we think we'll have legal standing to be able to say no in that case. We're not gonna be able to wait until

we have like a Nova project and then suddenly scramble to put together an answer that's no. That, that clearly is gonna be viewed as being very protective and legally indefensible.

MALE: Is there a baseline, for instance, if water also comes into the lake (loud cough), let's say certain areas, a small amount does come in from the states, are you establishing a baseline in case of severe drought or natural calamity or global warming or something else so that the rates can only get, grow 610 feet or something like that? Are you protecting the basin from the biological standpoint or the (not understandable) under severe conditions from (not understandable) evaporation or something else. So are you considering all of these factors or just economic factors of (not understandable)? Like (not understandable) waters commodity but I, is there some other protective areas there, where the whole system's protected because of the day-to-day (not understandable)?

BRUCE BAKER: I'll start out and ask Chuck to...one of the tests that are gonna be applied to this is gonna be by Quebec where very big to them is water quantity in terms of being able to use the St. Lawrence Seaway and also for hydropower generation. And so any drop of, of water that, of any significance there is very important to Quebec. That's gonna be one standard that, you know, Quebec's gonna bring to the table in every discussion on every project, you know, will this potentially affect the water levels in the lake and in the St. Lawrence Seaway. The other part of this is any ecosystem impacts that would occur on the lake. You know, we're working with a number of different projects that have been funded by the Great Lakes Commission and others to try to get a better handle on what the relationship is between water quantity and the Great Lakes ecosystem. There is not right now any defined number that we have and there's great fluctuation on an annual basis in lake levels and certainly over time on lake levels so it's very hard for anybody to right now say that this is the water level. But, you know, we are, we are very serious about, in this system, trying to have a better understanding of how water quantities affect the entire ecosystem. And it's not a, it's not an economic thing since it's strictly a protection of the Great Lakes ecosystem as the standard that would be used to judge water usage.

CHUCK LEDIN: The only thing I would add is just make, trying to set that baseline is really difficult. The natural fluctuation of Lake Michigan over time is 63 inches and trying to figure out how to do a study over the long period of time that those lake levels fluctuate, right now we don't have the kind of tools that enable us to look at all of these things or even understand if this cycle is important to this system, if the drying is important to some of the coastal wetlands, if the back and forth really revitalizes those, keeps the plant community static or changes some of these things. The introduction of exotics has greatly altered how the system acts (coughing—not understandable) and behaves and, and these are issues that, as Bruce said, we're gonna have to look at on case-specific projects or recognizing that we got to have better tools to look at these and it's even more complex to try to look at the groundwater issues from a baseline standpoint when we don't even have a clear picture which way the groundwater is going or whether or not some of the aquifers are even connected to the Great Lakes when they get down thousands of feet. So those are issues that really need a lot of research yet.

BRUCE BAKER: And part of this proposal is a system that gets us a lot more data than we have right now on water use in the Great Lakes so we can do, you know, better calculation of how much water is actually being used right now and, there is not adequate database for any of the states in order to even look at those issues. So some of the requirements we have in here are reporting requirements that would be then fed into the larger database to be able to do those types of analysis.

(pause)

MODERATOR: Do you have any other questions? Clarifying questions?

MALE: I have one. Maybe (not understandable). How does the protecting the (not understandable) of the Great Lakes play into the Great Lakes States' ability to set standards that are better defensible, legally defensible against challenges under NAFTA?

BRUCE BAKER: That, actually that's having a standard to be applied in judging project is what we believe is, is clearly allowed under NAFTA and that provides a basis so we're, you know, what we're saying is a standard based upon the environmental security of the Great Lakes is something that currently we believe from the legal advice we've gotten, you can do under NAFTA and not have people raise an issue that you're being unfair in trade relationships. So clearly, you know, there's been a (not understandable) lot of discussions of NAFTA and other agreements to make sure that whatever we put in place won't be immediately challenged under that basis. But the key is, and we believe this is the key for a lot of legal challenges, that there is a standard that is applied to all projects inside, outside the basin and it's done uniformly by all the jurisdictions. That's, you know, that's fundamental to any success.

MALE: Will you verify that, is it a given (not understandable) for some amateurs like myself, that (not understandable) or economically you have defined water as a commodity? Is that the legal term (not understandable)?

BRUCE BAKER: No. No. It's not a commodity but it's an article of interstate commerce. A commodity would mean, you know, implies the, that there's a price on it and that you would sell it. Interstate commerce just means that there's control, lack of the ability to control it for interstate uses. Now you can control it (cough). If you, for example, if you have a standard that you apply in the state for all users, you can apply that same standard to an out-of-state user and that's considered to be consistent with the commerce laws. So you can, you know, if you regulate Milwaukee in a certain way on water quantity uses, then you can apply that same standard outside and not get into trouble in the commerce clause. And there's some, you know, details you can get into there but that's basically the issue. As opposed to putting a dollar figure on it and saying that if you pay this dollar price you can have it. We would have a standard that says you have to meet this standard in order to use water and if, you know, there's no money issues associated with you getting it. It's you meeting a standard and it's a standard that applies to everybody in the United States and everybody in Canada and it's not a standard that's limited to people outside the States or Great Lakes States or outside the basin.

MODERATOR: Thank you all for your very thoughtful comments and for your attention. We will move along to the verbal comment period of this meeting now and several people have signed up to provide verbal comment. You can still sign up at any time during the meeting. The meeting sheets are in the table in the hallway and if you hand them to Duane there in the green shirt in back and he'll bring them up here. We certainly want to give you the chance to give your public comment. I'd like to remind you that the public comment period for the draft agreements ends October 18th and all the contact information is in the back to provide written comments. We can accept them today or you can mail them into the Council (not understandable). You can also email or do your comments online. I'm going to call your name and I'll ask you to come up and make your statement here at the microphone so that we can easily record it because we're recording your statements to be part of the public record on this meeting and the response will be (coughing—can't understand). So I will call your name and ask you to come up to make your comments. I'll also call them name of someone who'll be on deck so you'll know that you'll be next. And although I did state that we aren't going to put a time-limit, if you're up against a 10-minute line, I'm gonna ask you to wrap it up so everyone does get a chance to make their comments tonight. Thank you. Could Marlene Simenson come up and give her comments tonight and then Larry MacDonald will be next.

MARLENE SIMENSON: Usually S is usually way down the list so I wasn't very (not understandable) (laughing). I'm Marlene Simenson from Duluth, Minnesota. I live on Striker Bay and

that is a big issue that we have been working on to get cleaned up. And we see many different things living on the water where industry affects the water quality and we see coal piles being watered to keep dust down and that water runs right directly into the water and back into Lake Superior and coal is one that's known to, mercury is deposited in the water from coal then. And we see a lot of things that there are no restrictions on and we believe that there should be some environmental impact on people using the water of Lake Superior or Michigan or any of the other Great Lakes. And I know there is also (not understandable) business in Duluth and that issues of fine (not understandable)-like dust that goes on water and it runs into Lake Superior. And there is also a railroad tie business that they grind up and that's right on the shore where all this stuff from, creosote runs into the lake. And again that is, there are no restrictions. But my husband and I have been both boaters and industrial-minded people for many, many years and we've traveled all the Great Lakes and realized how affected any debris on water would be to small bays and rivers and lakes that are adjoining the Great Lakes. Some of the entries to these places are shallow and have to be regularly dredged out. But we feel that we are against any kind of diversion or water to other communities other than the Great Lakes Basin and I think that would be mainly (pause) my comments. Thank you.

MODERATOR: Thank you. Larry MacDonald is next and please be prepared George Meyer.

LARRY MacDONALD: I'm Larry MacDonald, resident of the city of Bayfield. I've spent recently spent ten years as the mayor of Bayfield and retired from that job a few months ago. I've served on the postal (not understandable) counsel and the UW (not understandable) Advisory Board and just to set the stage, Lake Superior is the heart and soul of my community. It's the most important thing that we've got other than our own residents. And I, I just want to say that I, I know I'm not mayor any more – I think I'm speaking on behalf of a good part of our community. The joke is there's 611 people and 609 of them would oppose any master diversion of water. We've got two we're trying to get rid of. (laughter)

BRUCE BAKER: Trying to divert them?

LARRY MacDONALD: Yes, we're trying (laughing). Anyway, I recognize that you recognize and understand the importance of these lakes and have a long, enduring respect for its valuable resource, particularly Lake Superior where I live. And I do recognize international laws, maybe federal laws, state laws, all have an impact on all of this, all of this stuff being defined in the, this whole process will come about. I do strongly support the draft annex proposal and all puns intended, I do have a concern that the annex not be watered down as it goes through its process. A major concern I've got is with the large scale water diversion and I do agree with Chuck that quadrillion's a bigger number than mayors of the town of 611 people work with, whether it's water or anything. But a billion doesn't go as far as it used to. (laughing) In Bayfield it would, but it does not go as far as it used to. Major diversions like Graff(?) to the southwest part of the United States. It would be expensive to run a line down there. As indicated, they'd have to run a line back and treat it both ways. The incremental cost is only double. So for every billion it costs you to move it down to Phoenix or Las Vegas, it's only two billion to get it back here. I have no idea what it costs but if there were a million homes that were gonna be serviced – I don't know if that's a big figure or a small figure but perhaps in the greater southwest there could be a million homes – if they each paid \$50,000 I think they end up with \$50,000,000,000 towards the water. I don't know if that means anything or not but. I think that, I know we've got to do this legally and correctly, but we need to look at every possible aspect so we don't get outfoxed by someone with far more money than we have. I have a good friend who works for, although I think he may have just left the job, he works for Park County Government in Las Vegas. And in a recent discussion with him about water usage down there, his description about the lack of really true long-range foresight on water issues is really, really frightening. Realize we may end up having to ship them water. I hope we don't. But let's be sure that, let's, I don't know that we

can be sure that shipping water back is gonna stop a major diversion. At some point in time water is gonna be even ten times more valuable, a thousand times more valuable than it is now. Thank you.

MODERATOR: Thank you. George Meyer is next. Becky Sapper, you'll be next.

GEORGE MEYER: Thank you very much and thank you for being her for this hearing and as you can tell, there's strong interest in this part of the state for the hearing. My name is George Meyer. I'm Executive Director of the Wisconsin Wildlife Federation. The Wildlife Federation is the largest conservation organization in the state representing 89 hunting and fishing and trapping groups throughout the state. Within the basin, there's 36 of those organizations and within either Lake Michigan and the Lake Superior Basin and many of our other members use those bodies of water very, very frequently, either for fishing, boating. Obviously a (cough) people that I live with in the basin are using it for their sustenance in terms of drinking water and many more for businesses that rely on that water for their economic use too. And that's a very important part of this also. Larry mentioned that the potential threat, you know, others coming in. And while we think of it in quadrillion, quadrillion gallons and it's such a large body of water and there's such large distances, it is a real threat. And once that door is open you can't close it later on. And a friend of mine that lives in Arizona sent to me an outstanding article, or actually it's a full section of the *Arizona Republic*, the largest newspaper in Arizona - 12 page. It talks about a journey down a troubled river and it talks about the water problems of the Colorado River which 8 or 9 states are using every last drop of that valuable body of water. And it talks about the competition and how they're still in trouble. Lake Powell down 100 feet from its ordinary high water mark. The fact that the Colorado River doesn't even reach the Gulf of California anymore. Every last drop of that body of water being used. And what is scary, there was another article I read where Phoenix is in Maricopa(?) County and of course there is even other suburbs that are in Maricopa County but just Maricopa County has 3 million residents and the projection is that it's gonna be 5 million by 2020 where those people are gonna be using water. They're gonna be looking at the largest water volumes in the world and while there is some cost to (not understandable), there's commodities now - and I use the term commodities cause they are commodities - they are less expensive...they are less valuable than water that are being pipelined across the country. So this is something that is economically feasible. We'd like to thank the (not understandable) for excellent work in putting this together. Figure 8 diverse states, different politics, different economics, different ecological needs, some with different economic uses of a river, of the lake. It truly is an outstanding effort and (not understandable) and the staff that (not understandable) you are commended for outstanding efforts. We would like to support many key things in the agreement (cough) that in fact we're sure that will be viable and protect the lakes. The fact that someone proposing to (not understandable), no reasonable alternative. That can be a very high, very, the fact that they have to show there's no adverse environmental impact. There's been a lot of discussion already about the return flow that comes in which does add another economic barrier but also very important ecological benefit back to the lake. The fact that those that are taking it have to have conservation plans. We in the upper Midwest are the highest water users per capita in the country, and our country is one of the highest. Canada's higher but U.S. is, our country's is, it's (not understandable) highest water users in the world. We're highest of the highest. So even those in-basin uses can benefit from conservation. We sure can do that in the state. (cough) And there was, the first time it's ever been done, one of these agreements (cough) requiring that someone that take the water actually does have to go beyond that and actually do some improvement to the water, whether it's working with (not understandable) basis uses or habitat restoration which is first time that it's ever been put into this agreement. It really is outstanding. Excellent provisions in terms of public involvement, (not understandable) this proposal. That citizens can get involved and have a say on it to help protect the (not understandable). The fact that there are strong enforcements for the means, that states can challenge other states and even citizens can challenge decisions that are made early. Outstanding. There are some things we'd like to see improved. I know, like I said, this is a pretty strong agreement the way it is. There needs to be more

definition of things, like what is significant adverse impact and in the written comments we're gonna try to comment on that. The kind of water conservations measure that water users must implement to (not understandable) more and better define as an agreement. The ten-year period was discussed. That is too long a (not understandable) for the agreement. Maybe this (not understandable) process works better but coming down to a finer limitation would be better. The requirement that the fact you don't have to get approvals if your only taking a million gallons a day for less than 120 days. That means a lot of water and you think in terms of agricultural uses which is (not understandable), that can be a lot of water. That should be narrowed to 30 days. And then the last comment would be the fact that there's a standard that of, you could take up to 5 million gallons a day of consumptive use within the basin before getting into some regulatory processes. That should be lowered so you do have that stronger balance between what is regulated out of the basin and in-basin and better be able to protect the legal challenges (not understandable) NAFTA and the Congress of Waters so. Thank you very much for all the work you've done and for being here to listen to the public.

MODERATOR: Becky Sapper and then Joanne Olson.

BECKY SAPPER: Good evening. My name is Becky Sapper and I am here today on behalf of the Nature Conservancy in Wisconsin, representing more than 22,000 members statewide. I'm the Conservancy's Project Director for the Chequamegon By Watershed. The Nature Conservancy is an international ground (not understandable) organization and we're dedicated to preserving the plants and animals and natural communities that represent the (not understandable) life on earth and protecting the lands and waters they need to survive. And in the eight Great Lakes States (not understandable) concerns we have a combined membership of more than 235,000. We protect hundreds of thousands of acres of land and water in the Great Lakes and in Canada. A substantial number of these areas have been in the Great Lakes Basin and our focus on the lands, the wetlands and waterway (not understandable) contribute to the health of the Great Lakes. The Nature Conservancy supports the annex agreement and believes that the historic agreement has a potential to become a worldwide model for water management and conservation. As an advisory member to the counsel working here for the (not understandable) is welcome the (not understandable) agreement that (not understandable) to bear on this comprehensive strategy to manage an entire ecosystem. We support this agreement overall. We do however feel that it can be strengthened in four specific areas. Our first recommendation is that the agreement defined in water conservation standard, the contact should establish a benchmark (not understandable) requirements based upon the type of withdrawal. We encourage the state's (not understandable) to develop and commit to regional water conservation goals that will be met by the (not understandable) environmentally sound and economically feasible water conservation measures. Our second recommendation is that the averaging period be 30 days so that all water use sectors are subject to the same standards. This will prevent (not understandable) to the fresh water ecosystems caused by unmanaged withdrawals. The agreement (not understandable) allows users to withdraw very large quantities of water during each relatively short period of time and then average the withdrawal over a 120 day period. A 30 day averaging period would allow a more realistic management of impacts to the tributary streams, (not understandable) groundwater that contribute to the health of the Great Lakes ecosystem. For example, it would allow users to withdraw (not understandable) quantities of water during the driest months. These are the months in which streams and sensitive ecosystems are most vulnerable. You just could do this without meeting any of the standards as long as they average their withdrawal to be below 100,000 gallons per day over the 120 day period. Thirdly, we agree with George's comments to recommend a 5-year basin (not understandable) to develop a jurisdictional programs to manage the withdrawals. We understand that states and provinces may need time to develop new water management programs that are consistent with these standards, but we believe that these standards should be implemented as soon as possible to a (not understandable) where the degradation of the Great Lakes System's from the management withdrawals. And finally, we recommend that all wide users should be required to improve the ecosystem, (not understandable) all

withdraw standards of no harm, water consumption and improvement with a core commitment of annex 2001. Allowing withdrawals under 5 million gallons per day to be exempt from the (not understandable) creates substantial potential harm to the system, both locally and system-wide. This commitment is precedent-setting. A strong improvement standard so far as the regions (not understandable) creative and collaboratively about how our natural systems can be improved. This policy loses its restorative power when all the users are not required to improve ecosystem throughout water use. (not understandable) incremental good by (not understandable) incremental damage. A commitment to the Great Lakes Basin in collaboration shown by the states and provinces encourages us and inspires us. We continue to support the region's leadership in the development of this precedent-setting water management policy. The foundation is laid for, the foundation is laid for water policy that could lead to real ecosystem benefits for the Great Lakes Basin. Its effectiveness depends on whether the states and provinces make the necessary changes to the agreement, adopt it, apply the standards consistently and then enforce them. Thank you.

MODERATOR: Joanne Olson? Next will be Roger Anderson.

(End of Tape Side A)

(Begin Tape Side B)

JOANNE OLSON: (begins mid-sentence...not very audible) ...after reading the village paper...

MODERATOR: Excuse me. Could you state your name and address?

JOANNE OLSON: I'm sorry. I'm Joanne and I, I'm from Duluth, Minnesota. I read the paper late last night after work and realized I had missed the meeting and so I'm here. And thank you for allowing me to come. And I feel much better having come and gotten a feel of what these people are doing (not understandable). I think it's, it's beautiful. After reading the paper, it was like maybe they're already starting (not understandable) so I'm glad I did. (laughing) We have as you well know, (not understandable) and we need to sustain it and protect it. There is much less a population in (not understandable) than in water (not understandable) there is of the United States and I fear for us because if it comes to a vote and it is an interstate highway, we all know what the end result will be. And I'm going to go way off the wall and suggest something like a moratorium on building in the southwest mainly. I have relatives there and a part of (not understandable). And he and I have made an (not understandable) that she wants in Nevada. It sounds way off the wall but somewhere, somehow, it makes sense to me that it should be legalized, and I did ask somebody for some reassurance when I asked exactly what is (not understandable). If you check it out further, there's no water in that basin, in that area and yet they are allowed to continue to build. Tell me about that. It frightens me that these things continue. And I say this, having no impact. It just makes me feel better to share it with you. There is also a situation whereby Tom Nunly has been named Chairman of the Great Lakes Water Commission. Is that right? Anybody know?

BRUCE BAKER: He's the Chair of the Great Lakes Commission.

JOANNE OLSON: OK. He just was appointed?

BRUCE BAKER: Right. He just...I think this week he was the Vice Chair and he should assume the role this week.

JOANNE OLSON: OK. I don't know his background. I don't know, even know he's from Minnesota, I hope to get to know him. After the last group of town meetings we had in '99, Marlene and I attended that one, and I said to the man I'm not a cynic but where are you going with this

information and they said back to DC. I said what are they gonna do with it, you know. Sometimes the trust level gets a little (laughing), and he said you're right. You've (not understandable) to keep, you keep writing your letters; you keep contacting your representatives and your senators. So I guess I will leave you with that work and we hope to (not understandable) again. Thank you.

MODERATOR: Thank you. Roger Anderson and then Derek Scheer will be next. Roger, please state your name and where you're from (not understandable). Thank you.

ROGER ANDERSON: Thank you. Good evening everyone. It's great to be at the hearing we have here this evening and I'd like to thank all of those that are involved with the hearing. My name is Roger Anderson from Brule, Wisconsin and I belong to numerous sportsmen's throughout the state of Wisconsin, the National Wildlife Federation, the Wisconsin Wildlife Federation. I'm involved with the Nature Conservancy, U.S. Fish and Wildlife as a service volunteer, and the Brule River Sportsmen's Club. I'll probably be echoing quite a few of the comments here this evening. But there's a couple things that really do come to mind and I guess, you know, the bridge over troubled waters I guess it really holds true. But there is many threats that are before, I think, our Great Lakes System. Especially with the Corps of Engineers with the possibly the threat of dredging the total Great, or the St. Lawrence Seaway all the way from Montreal to the Twin Forks. And I can, would imagine that that greatly would affect the water quality itself. The recharge that Lake Superior or the Great Lakes system gets by Mother Nature is basically only 1% and that's due to the fact is of the rain, snow melt-off, and it, 1% within that given body of water isn't really an awful lot of water. The question about returning the water to the Great Lakes system as we would say in Lake Superior, Lake Michigan, how they return and what they extract or they draft out of the lake, the question about evaporation came about. And you can control evaporation too. And I think the companies that are using our resource for profit should make the investment into equipment that they can return that water at the same temperature they withdraw it at, especially whether the paper mills, power companies, large industries – it seems like large industry is the one that's really creating an awful lot of the problems throughout the Great Lakes system. And I think the thing is that if restrictions were put on them for the use of our resource which they're making a profit off of, and the thing is is this 30-day, pardon me, the 10-year period I feel also is far too long. It really is. With the, even if you cut it down to five years, I would be more in favor of cutting it down to less than five years. I really would. But we do have a resource in our own backyard that I think we take for granted every day and uh, it's coming to a time where I think we really do need to pay more attention to exactly what all transpires with this water. Mr. Meyer has referred to a friend out in Arizona. I just happen to come back a little town in New Mexico called Ridoso(?) and they have got a major problem with water out in that area. It's pretty saddening to go across the Rio Grande and it looks like a gravel road. On the north side of Albuquerque, you see sparse areas of water but you get on the south side of Albuquerque and it's a dirt road all the way down on through Santa Fe, all the way down. And uh, matter of fact I had a friend that was with me and I said we're about to cross over the Rio Grande and he looks at this river that he expects to see this huge volumes of water flowing on down. There's nothing. It's just, just a dry sand bed. And this was a river that used to flow hundreds of thousands of gallons a day and it's not there any more. Matter of fact, deviate away from the question here too, but there again, the stakes are coming to a point where they're making the transition to other states because that state has water. And the thing is that we're not declining in population. We definitely are increasing just as well as industry is increasing and using up more of the resource that we do have at hand. But the main part, concern I do have is the timeline that we feel very opposed to as well as the taking of large amount of water for more than 30 days should be required a permit. And I think this is a very important part too because the thing is, I feel that industry is being born every day and really, do we have tabs on exactly how much water is really being extracted from the Great Lakes system. The other portion is I think the Great Lakes is low right now and the problem with the awful lot of discharge which is going into the lake as we did have with Erie mining years ago, and thank goodness that has been cleaned up, but there still is remnants that are

laying in the bottom of Lake Superior that they deposited to the bottom. And there again, if dredging does happen throughout the Great Lakes system, what are we gonna discover that's gonna be in those barrels that are laying at the bottom of Lake Superior? I think time is of a great issue and I think that the further and fastest method that we can approach this problem would be the best. Probably something like this should have been done maybe years and years ago. Maybe we're far behind the eight ball than what we should be. But as I say, I think one other thing is too, with global warming supposedly that's coming, the amount of evaporation which is happening from the lake due to the temperature increase due to the amount of industry that's using the amount of gallage they are using today, and all of those aspects taken into consideration, and especially even as the gentleman from Bayfield had mentioned, that that Lake Superior is the livelihood up here for many, many people. The other thing I think that we have to take a look at too is maybe somebody will object to it but our forestry practices that we're doing today. We're doing clear-cuts, large, huge clear-cuts that are affecting the water quality. And um, I would like to see some of these being restricted, especially on some of the main (not understandable) areas that are feeding into Lake Superior. And it um, it's becoming a great concern. I guess we really do have an awful lot of problems here that I'm very glad that I was able to come this evening and really appreciate your time, concern with these issues. But I hope that we can come to a fast conclusion of this and I think possibly looking into exactly what the Corps of Engineers has planned would be quite interesting also due to the factors of this dredging and of course stirring up the sediment which lies in the bottom of every one of the lakes which does create a high count of mercury and TCDs and it's a toxic waste basically and what do we do with it? How do we dispose of it for one thing? So there's a lot of old facets that are all connected with this problem with the Great Lakes system and our water system, and it's a resource that we can't take for granted anymore. We have to protect these waters that we do have. We've never had this problem. The other, another portion too is there were, last year was the first time that I ever seen restricted signs, beach is closed due to the amount of, high amount of bacteria in the water. Now that's a pretty sad advertisement for the largest body of fresh water in the world. You know. And people I think kind of look at that as something really is happening with our Great Lakes system here. So hopefully we can come to a quick conclusion to this problem and again, I thank everyone for allowing me to, me to be informed this evening and thank you ever so much.

MODERATOR: Thank you. Derek Scheer and then Bob Olsgard.

DEREK SCHEER: Good evening. My name is Derek Scheer. I'm the Water Policy Director of Clean Wisconsin. We are an environmental advocacy organization in Madison, Wisconsin. On behalf of our 10,000 members in (not understandable) and partners statewide, we'd like to voice our support for the Council of Great Lakes Governors effort and the draft (not understandable) language. Personally, I've been interested in the health of the Great Lakes for many years. I guess the earliest point would be in 8th grade. Summer of my 8th grade year, my brother and I were screwing around on Lake Erie and we dove down on the bottom and of course, to prove you hit the bottom, you have to bring something up. And when we got to the surface, neither of us knew what we had. But it was this little striped (not understandable) and after that summer I looked into what it was and it was a zebra muscle. And the bottom of Lake Erie was absolutely covered them. And I went back and my 9th grade year, freshman year of high school, I wrote a report on the zebra muscles and what they were doing to Lake Erie. And the next summer when we went back to Lake Erie, the water, the depth that you could see through the water had changed from something like Lake Mendota to something like Georgian Bay at the top of Lake Huron. And the water clarity went from probably a couple of feet to, to 30 feet very quickly. I'll be commenting on the questions asked by the Council's request for public comments. In order to ensure consistent treatment between basin and out of basin users, a reasonable review level should be one million gallons per day, calculated by averaging the usage over 30 days and apply it to those diversions (inaudible). Regional review of projects that would allow municipal water utility to serve around 10,000 citizens is large enough to, that citizens in communities in other states and

provinces might want a way in that. I used that 10,000 figure based on the calculations that, from earlier. The idea is to have sustainable system of managing water, a million gallons per day regional review level will be the best (not understandable) sustainability and minimize cumulative impacts. As written, the compact averages withdrawals over 120 days. This is different than the averaging period for Wisconsin's groundwater supply protections. I understand that 30 days is the standard for review periods in other Great Lakes states. And 120 days is too long and will exempt water users diverting, well, by my calculations, almost to 12 million gallons of water over the months of June and July, August and September. To avoid equal treatment or fairness issues, the diversion and consumptive use regional review levels should be the same. So as we have said, as I said earlier, that should be at the million gallon per day level. Having two standards, consumptive use at 5 million gallons and diversion at 1 million gallons, seems discriminatory on its face. The levels should be the same to avoid commerce clause and international treaty challenges. We would very much like to support, we would very much like to support the public participation and enforcement for divisions. Especially important are the citizen enforcement cost recovery provisions so that, you know, if we're gonna go up against big corporations or water withdrawers, we should be able to get our costs back. These should not be weakened. Also we would hope that the governors would commit to an online and electronic database for gathering information on public comments and participation. Finally, I would like to comment on the permitting or approval of existing users. Public Trust Doctrine in the Wisconsin Constitution for big (not understandable) is the public water resources. Therefore we feel that the compact should explicitly denounce an implication that permanent users would be, that permanent uses be considered an asset of permitted entities in the sale of that entity's assets. So if you have a permit for water and you went bankrupt, the permit wouldn't be able to be used as an asset, and a financial asset. Thank you for the opportunity to speak to night. I'll submit further comments.

MALE: Thank you.

MODERATOR: Thank you. Bob Olsgard is next and then Neil Hawk.

MALE: (whispering) Duane's got one more.

BOB OLSGARD: Howdy. I'm Bob Olsgard. I work for Lake Superior Alliance. My job title is Lake Superior Waterkeeper and it's great to be here tonight and see such a great group of people who have come out to talk about their concerns about the future of the (not understandable) Lake Superior. This is fantastic. So I want to thank you and then I want to thank you guys and the Council of Great Lakes Governors. But first off, I should tell you about the Lake Superior Alliance. We have 40 member groups. We have over 300 individual members. We're a coalition of environmental groups and a couple years ago we decided to start a water-keeper program because it seemed like everyone has this sense that, that the quality of the habitat, the quality of the water, that things are happening to Lake Superior and we really are not keeping close enough tabs on those things that are happening. The basis of our program is to monitor and to take action where action is needed. But back to the Council of Great Lakes Governors. If, if we do this right, we should end up with a set of standards that will protect Lake Superior and the Great Lakes. They'll protect the in-basin uses which we depend on for a healthy economy, not only the beauty of the place, but the power plants, all of the things that we need to live here as residents in the basin. If we do it wrong, we could face some challenges. So I want to thank you guys and the Council of Great Lakes Governors for really picking up the charge of, that was issued by the Noble Proposal back in 1998. The Council of Great Lakes Governors sent council to the hearing in Sioux St. Marie, Ontario which I think scared the relative bejesus out, of the provincial (not understandable) there, saying that they're, you know, this is covered under preexisting international agreement and we're gonna fix this. They've come up with a fine compact and the fact that it is the result of years of negotiations, first the environmental standards and annex 2001, and then this implementing agreement, with the company international agreement, when you could get eight states and Quebec and Ontario to agree to this is phenomenal. And a whole lot of people are to be

congratulated on carrying this forward. Having said that, of course there's some things that could use a little improvement and one of the things that Derek said, I want to speak again to it. That under enforceability, it's, it's good. It's a very good agreement. But if we're gonna have enforcement, it would be very important to have cost recovery mechanism so that citizens would be able to take action on behalf of their water resource. There are still, in most people's views, some potential for basin-wide inconsistency. The, the company should reference the proposed international agreement's detailed procedures manual in instructing how these are gonna be carried out. Otherwise, there is the chance that you'll have individual states adopting separate sets in treating individual situations separately and in consistently across the basin. There needs to be a definition of what improvement means and you've heard this before: the conservation requirements really need to be toughened up and what Vicki said was, said was really very much to the point. Some uses seem to be treated more leniently and specifically the 120 averaging period is too long when you have an intermittent use such as agriculture. If you're only using it for 60 days and you're averaged over 120 days, it doesn't take a math professor to figure out that you're getting at least a 2-fold benefit. We think it should be dropped to 30 days. That's the standard Wisconsin applies right now. There seems to be an unequal treatment of diversions in in-basin uses. And when we, we talk about protecting this resource, and I really don't like the word resource, but when we talk about protecting Lake Superior and the Great Lakes under the trade agreements, we really have to be rigorous about consistency. So when the proposed agreement subjects even smaller out-of-basin diversions to an extra set of requirements and tougher 8-state review. For in-basin water uses the compact reserves those extra hoops only for the very biggest proposals. In some scenarios this very treatment could require a 50 times higher amount of in-basin use to trigger the tougher review than it would for diversions intended for the same purpose such as drinking water supply. This difference in treatment would be an excellent, would be excellent evidence for a lawsuit challenging some future state diversion (not understandable) as discriminatory. The solution would be to toughen standards for in-basin uses by lowering the level at which they're subject to regional review and requiring that they include an improvement. Doesn't sound too hard. Political realities may make it impossible for in-basin uses to be treated as toughly as diversions but the gap has to be significantly reduced. I believe everyone's spoken about the 10-year phase-in period. That's way too long. As a veteran of the rule-making for the Great Lakes Water Quality Initiative, I would suggest that 5 years would be a relative horserace but it could get done. And it could implement pieces of this such as the standards very rapidly because the lengthy piece is going to be the adoption by each state of the standards into their water, water rule sets. That's gonna take some time and I'm the first person to recognize that. The requirement to return water where it came from is really very, very good. But if you require to return flow only to the watershed of the same lake from which it was taken, you're really ignoring the sub-watersheds, the sensitive streams, the wetlands which would have the most dramatic affect on them. A significant draw-down in that area. The whole of Lake Superior, the 30,000 square miles of surface area, you're probably not gonna see the affect. So it would be better to say that the water should be returned as close as possible to the point from which it was taken. That would seem to fix that problem. The cumulative affect, the fact that there is a provision, provision for assessing cumulative affects, is very good. But the fact that you assess it across the entire Great Lakes Basin could mean again we're ignoring the potential cumulative affect of a number of diversions in a small area in a particular watershed. A sensitive stream, a sensitive wetland complex. There should be some, some provision for judging cumulative impacts on a smaller scale. The Great Lakes Basin would seem to be too large a scale at which to really assess impacts. And I will, I'll submit written comments separately on behalf of our organization and I will thank you again.

BRUCE BAKER: Thank you.

BOB OLSGARD: Oh! One more thing. If you want to comment an easy way, I've got postcards to send in to the Council of Great Lakes Governors and I've got stamped, I've got envelopes that area addressed to David Mesmer, the Council of Great Lakes Governors if you want to send him a

little piece directly (laughing in background). (not understandable) Pick up one of these, send (not understandable). Thank you.

MALE: A public service. (laughing)

MODERATOR: Thank you. Neil Hawk is on now and next it will be Donna Williamson.

NEIL HAWK: Hello. My name is Neil Hawk and I'm a resident of Bayfield. Hopefully not one of the two that Larry wants to leave. (crowd laughing)

LARRY MacDONALD(?): You're one of the 609. (laughing)

NEIL HAWK: I've been a resident of Bayfield since 1983 when I moved there from northern Arizona and we seem to be talking a lot about that part of the country. One of the reasons I moved to Bayfield was because water in Arizona was such a bizarre (not understandable). It was so difficult to get and yet billions of dollars were being spent on a series of canals, the Central Arizona Project, when I was there that was sucking the water out of the Colorado River and shipping it down to Phoenix where they could let it evaporate when they're watering the lawns. And if, you know, that sort of thing can happen, you know, 25 years ago, you know, it's certainly something that we need to consider when we're looking at the future of Lake Superior. I love living in Bayfield. I get to look out at the lake every day. I recreate on the lake. I work on the lake. But I'm also here as a representative of the Chequamegon Audubon Society. It's a (coughing) chapter of the National Audubon and one of the reasons that we exist is to preserve habitat for species of plants and animals that live in the area. And speaking as the president of the Chequamegon Audubon, I'd just like to also express our strong support for the annex 2001 agreement. The idea of keeping the water in the Great Lakes Basin, conserving water use and preserving the quality of the water, all things that our organization is very much in favor of. I think a lot of the proposals in the agreement are excellent. I'd also like to join several other people here in acclimating specifically what some of the Nature Conservancy comments were. I think that the 10-year phase-in period is excessive (not understandable) as little as five. Basically, as far as I'm concerned, the sooner the better. And the idea of averaging withdrawals over 120 days also seems excessive. I'm also supporting (not understandable) to the 30 day (not understandable) level people had mentioned. My understanding of the agreement is very general nature but I think it's definitely a step, a huge step in the right direction and I'd like to support it's passage.

MALE: Thank you.

MODERATOR: Donna Williamson and then Bruce Lindgren.

DONNA WILLIAMSON: Hi. I'm Donna Williamson. I promised myself I wouldn't speak tonight but of course I am. I am from Ashland and among other things I am the co-chair of the 2004 comprehensive plan for the city of Ashland. But like Larry, I'm not gonna speak in any kind of official capacity. I'm speaking as a private citizen. And I want to talk about two life forms we don't always associate with the Great Lakes and that would be gorillas and microbes. Every person who has spoke prior to me and including myself, has something in common besides their love for the Great Lakes and that is each one of you has represented a not for profit organization. The 800 pound gorilla are the corporations that are going to want our water. I think it's time we mention them. In this particular political administration in Washington, DC, in three years and 8 months, the Bush Administration has overturned 364 environmental laws. They did most of them out of court, out of Congress and out of sight. They did it through a nifty little hook called the Executive Order. They say the clean air, which is really dirty air; they talk about clean water and they're really talking about mercury; they're talking about omissions; they're talking about clear-cutting in our forests; they're talking about I want to say the roadless rule through our wilderness areas here. We could talk about the snowmobiles in some of

our national parks and some of the other things that we thought were safe issues that had been taken care of legislatively, they overturned. During Clinton Administration, and remember when they kicked the snow...were going to kick the snowmobiles out of some national parks, well guess what, folks. They're back. Bigger, meaner and tougher than ever. I applaud the work that representatives from these organizations have done and I want to thank you for your tireless efforts in going around with all these public speaking things. But you need to know that like that it can all be overturned. If we do this, and I hope to Heaven we do it, we're going to have to fight for it every step of the way. I will use as an example what's happening in Ashland, Wisconsin. We're right on Lake Superior. We get our water from there. It is the best drinking water I've ever tasted in my life. Prior to living there, I lived 27 years in the Chicago suburbs so I have lived in the Great Lake Basin for the majority of my life. Pretty darned good water and I'd like to see it stay that way. Let's talk about microbes. There is a dead pond in Ashland, Wisconsin, where no flora lives, where no fauna lives. That is so dead that no microbes can live. Now it's supposed to be a superfund site. There's only one problem. This administration (not understandable) there's no money. Actually they weren't alone. Other administrations had a hand in this. There's no money to do anything about that site. So even though we've got designated superfund site, so what! We can't do anything with it. So it's gonna drag on for years and years or more. And we'd love to see our town head little more in Larry's direction. In other words, be a magnet for tourists to come in and look at our community. We also have some wonderful swampy area on the west end of town that our (not understandable) love but I'm really scared because this summer we had several ecoli breakouts and on Prayer Park and Menslowski Beach, we had to shut some of our beaches down. In the meantime we had a gas station for sale on the lakefront. What does that mean? It means here's a golden opportunity take a commercial enter...what was a commercial enterprise off the lakefront, tear down the building, open the whole thing up, and it could have been a scenic overlook. The business people, and there are not very many business alliance in Ashland, Wisconsin, because the city wanted to buy the land, do what I was talking about. And the business alliance said you can't do that, we'll hurt our tax base. So what they did is a business owner who got to it put before the city council could decide get off their duffs and we now have a pawn shop on our lakefront where a gas station used to be. Terrific. If we use that as a microcosm of what could be happening all around our Great Lakes, we see that there are those parties for reasons I (not understandable) understand and I think most of you do either, who are not interesting, interested in preserving our lakes. And if it means putting a pawn shop on the lake or if it means killing water so dead that I wouldn't let my two grandchildren wade in it much less people wanting to boat, and interestingly enough, this is, this is where we have our (not understandable) park. It's right in front of this dead pond. So the people who come and camp in Ashland, Wisconsin, park their recreation vehicles, but don't you go in that water because it's contaminated beyond what's reasonable for human use. So I think we're proud of you folks and I hope you get your way. But I'm really concerned about what's gonna happen down the road because we have no microbes and 800 pound gorillas sitting in our backyards. Let us all get together and work on saving our Great Lakes.

MODERATOR: Thank you. Bruce Lindgren, you're on.

BRUCE LINDGREN: Well I (clear throat) appreciate the opportunity to be here tonight and I have greatly appreciated listening to all of the fine presentations. I'm Bruce Lindgren. I'm from the town of, from Herbster which is actually located in the Town of Plover on the Scenic Highway 13. We enjoy the lake on a daily basis. We sometimes emphasize that we're perhaps the only town along the lake that has the privilege of being flanked by two Class A trout streams, we have Lake Superior in our front door and Chequamegon National Forest in our back door. So we've got a lot to protect and appreciate. And I, I say that first because I'm mainly here representing myself, although as some of you know, I am involved with a large number of organizations and activities. I've served as a municipal official, Chairman of the Town of Plover, been involved with land use planning at the county and at the town level and I currently am a board member of the Inland Sea Society and through that

capacity represent the Wisconsin Stewardship Network as the northwest hub coordinator. I am also a member and currently U.S. co-chair of the U.S. (not understandable) Chair of the Lake Superior Financial Forum. And I think through all these affiliations I have also, for five years, been a board member of the Bayfield County Economic Development Corporation and am currently serving as president of that organization. So one of the, one of the things that I think is of (cough—inaudible) importance and this has been emphasized in a number of different ways, is to try to look at the balance that is so essential for sustainability. And sustainability can be measured and described in a number of different ways. I'm not sure that there really is a good definition of it. But it seems to me that at a very base level sustainability is a measure of how our decisions are going to impact future generations. And I think this effort to create this agreement is just a tremendous collective effort to put in place a mechanism for making effective decisions that will protect the lakes. So I, I have to say that I am very supportive of the effort that's been made and wish the very best for sustaining the many fine components of these documents. I shared some concern about the gorilla that was mentioned. That was a very effective way to put it. We do have to anticipate as we move forward difficulties with what we might call back-channel lobbying. (not understandable) this public input has been completed, I think we can all anticipate that there are going to be those forces out there that will try to soften up some parts of this agreement to make it more beneficial for some of the narrow profit interests of commerce. And so as we move forward beyond the public comment period, I hope that those that are concerned with the integrity of this agreement will be able to use this public input as a basis of, a basis for sustaining the excellent provisions that are present. I think there have been so many good comments and some of them very eloquently stated that I'm probably one of the last speakers tonight and being last, usually most appreciated when you keep it short. So I, there, there really probably three things about this agreement that I want to comment on. One is, and all of these have been mentioned before, but I think this averaging period from 120 days (not understandable). The 120 day period really should be reduced. I fully agree with the previous comments that 30 days is much more realistic. I share the concern about the ten year phase-in. I think that's much too long. And as was brought up by a previous question, I think even not, at this point, knowing for when that, the trigger point is for that phase-in period, really does need to be clarified and the period shortened to a point that is practical and reasonable. And then I think again it's very important that we sustain or if (not understandable) possible, reduce the levels that trigger these permitting requirements. There are, I've heard comments from representatives of the Council of Great Lakes Industries and I know that there will be some very strong pressure to change those standards that will be more favorable to industry. So I urge the maintenance of those, of those standards and I hope for the very best. But I again, I do thank all those that have been involved in putting this meeting together. I think it, it does represent a real positive step forward for sustainability for our Lake Superior Basin so thank you.

MODERATOR: Is there anyone else who'd like to make a verbal comment at this point? Yes sir. What I'm going to do, ask (not understandable) to, oh, you have the form. (laughs) (inaudible) Ernest Martinson.

ERNEST MARTINSON: Yeah, I'm Ernest Martinson from Hayward. I'm still having trouble swallowing a lot of these things. Particularly that water could be returned. Let's say Iraq finally gets rid of us and our oil companies. We start sell it's own oil. It's gonna have money to buy water. And in the future, it's not only oil that's gonna be short. Water's gonna be very, very short. That's a dry area in the Mideast. So let's say it buys water from us. Sends us oil up to Lake Superior in an oil tanker and then converts it to a water tanker and boats up Lake Superior water to take back to Iraq, and then, of course it does that at our low water prices too because we're being subsidized, you know, with the 1972 Clean Water Act. It wasn't just federal regulations that we got. We also got a lot of federal funding and that's still going on though at a much decreased amount. Like for example, when I came up here I drove through Cable. A couple of years ago Congressman Olbe got 3 million, over \$3 million in subsidies for that little berg there. Over \$2 million in direct grants and over a million dollars in

federal loans. You know, reason he gave was so it wouldn't be on property tax. It shouldn't be on the property tax to begin with. That should be a rate that should be applied to the user. And it's just like all our resources. They're all under-priced so when you try to compensate by regulation and planning, but I don't think that's gonna work. We're gonna have to start figuring in the market here too. OK, so Iraq sends us back water in a tanker. It's not gonna help to use any ballast water because it's entering Lake Superior with a full load. But you know that water could serve the same purpose as the ballast water. It could give us some more exotic species. You might consider this to be Saddam's revenge. That's all.

MODERATOR: Thank you. Do we have anyone else who'd like to make a comment at this point?

MALE: I just have one question. Whether the diversion being by a pipeline, by a ship, whatever, and of course apparently we're thinking primarily of the Southwest, has desalinization ever come into the conversation whatsoever pertaining to waters (not understandable)?

BRUCE BAKER: No, it hasn't really come into the discussion. And we're not analyzing any of the needs of the Southwest or projections there. The one observation we would make is that the technology for desalinization is really improving. In part because they have a membrane filtration process for that and the cost of the membranes are really going down and the technology is really changing. We use a couple of membrane filtration treatment plants here in Wisconsin right now, even to treat water supply here. And so the costs are getting much, much closer and I think it's, it could be anticipated that at some point that technology will be practical.

MODERATOR: Any other questions or comments? (pause) I thank you all so much for coming out and spending your evening with us on such a beautiful evening. Having your input on this important work. It's very important to protect the Great Lakes and (not understandable) to that so thank you very much. Again I'd like to remind you that October 18th is the deadline for comments on the (not understandable) and there are materials in the back and forms that you can fill out today to provide your comments or you can also send comments in later. Thank you very much.

MALE: Thank you. Very helpful. (clapping)

(end of recording)

TRANSCRIPTIONIST CERTIFICATION

I, LaDonna Radel of Advanced Office Support, Division of Radel and Associates, Inc., do hereby certify that I have transcribed the conversation on the above referenced tape to the best of my knowledge and ability.

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